

# Congreve v Secretary of State for the Home Office: CA 1976

August 22, 2016

**References:** [1976] 1 QB 629, [1976] 1 All ER 697, [1977] 2 WLR 291

**Coram:** Geoffrey Lane LJ, Lord Denning MR

**Ratio:** The appellant had bought his television licence when the charge was £12 although the minister had already announced that it would later be increased to £18. The Home Office wrote to those who had purchased their licence before the new charge came into effect demanding the payment of the extra £6 failing which their licence would be revoked.

Held: It was an abuse of the Minister's undoubted discretionary power to revoke TV licences for him to seek to revoke a validly issued licence as a means of levying money which Parliament had given the executive no power to demand. The courts will rule invalidate the exercise of a discretion which contains no express limitations in such a way as to run counter to the policy of the legislation by which it was conferred.

Geoffrey Lane LJ: 'the proposed revocation . . . is illegal for two reasons. First, it is coupled with an illegal demand which taints the revocation and makes that illegal too. Secondly, or possibly putting the same matter in a different way, it is an improper exercise of a discretionary power to use a threat to exercise that power as a means of extracting money which Parliament has given the executive no mandate to demand: see *Attorney-General v Wilts United Dairies Ltd* (1921) 37 TLR 884.'

Lord Denning MR: 'There is another reason for holding that the demands for £6 to be unlawful. They were made contrary to the Bill of Rights. They were an attempt to levy money for use of the Crown without the authority of Parliament: and that is quite enough to damn them.'

and 'If the licence is to be revoked – and his money forfeited – the Minister would have to give good reasons to justify it.

Of course, if the licensee had done anything wrong – if he had given a cheque for £12 which was dishonoured, or if he had broken the conditions of the licence – the Minister could revoke it. But when the licensee has done nothing wrong at all, I do not think the Minister can lawfully revoke the licence, at any rate, not without offering him his money back, and not even then except for good cause. If he should revoke it without giving reasons, or for no good reason, the courts can set aside his revocation and restore the licence. It would be a misuse of the power conferred on him by Parliament: and these courts have the authority – and, I would add, the duty – to correct a misuse of power by a Minister or his department, no matter how much he may resent it or warn us of the consequences if we do.'

**Statutes:** Bill of Rights 1688 4

**This case is cited by:**

- Cited – *Regina v Braintree District Council ex parte Halls Admn* (Times 21-Jul-99, Bailii, [1999] EWHC Admin 626)  
Where a local authority had sold a property to a tenant, and the tenant later came back to request the release from one of the covenants given on the sale, the council was free to charge an appropriate sum for that release. It was not a covenant . . .
- Cited – *Total Network SI v Customs & Excise Commissioners CA* (Bailii, [2007] EWCA Civ 39, [2007] 2 WLR 1156)  
The defendants suspected a carousel VAT fraud. The defendants appealed a finding that there was a viable cause of action alleging a 'conspiracy where the unlawful means alleged is a common law offence of cheating the public revenue'. The defendants . . .
- Cited – *Wheeler v Leicester City Council; In re Wheeler and others HL* (Bailii, [1985] UKHL 6, [1985] AC 1054, [1985] 3 WLR 335, [1985] 2 All ER 151)  
The Council opposed sporting links with South Africa. The local rugby club failed to denounce apartheid and did not seek to dissuade three of its players touring with the national side. The Court of Appeal had refused judicial review of the . . .

- Cited – Cala Homes (South) Ltd v Secretary of State for Communities & Local Government and Another Admn (Baillii, [2011] EWHC 97 (Admin))  
The claimant sought judicial review of a statement and letter by the respondent making a material consideration for planning authorities the intended revocation by the Respondent of Regional Spatial Strategies. The effect would be to allow the . .
- Cited – Cala Homes (South) Ltd v Secretary of State for Communities & Local Government and Another Admn (Baillii, [2011] EWHC 97 (Admin))  
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(This list may be incomplete)

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<http://swarb.co.uk/congreve-v-secretary-of-state-for-the-home-office-ca-1976/>